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SOIL CONSERVATION DISTRICT ENABLING ACTS OF
THE NORTHERN GREAT PLAINS STATES

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Foreword

This is the first of a series of reports on the legal aspects of state and local land management in the Northern Great Plains States. The objective of each report is to compile a brief description of the statutory provisions in each of the states for a single subject, so as to furnish a convenient reference for administrators, technicians, and laymen who are working on post-war agricultural problems in this region. Subsequent reports in this series will cover such subjects as grazing associations, county land administration, state land administration, rural zoning enabling acts and tax-title procedure.

SOIL CONSERVATION DISTRICT ENABLING ACTS OF THE NORTHERN GREAT PLAINS STATES

The legislature of each of the Northern Great Plains States has adopted enabling legislation for soil conservation districts. Each of these laws conforms in a general way to the so-called "standard act" prepared by the United States Department of Agriculture as a model for state legislation, but there is considerable variation among them in details of organization and operation. The purpose of this report is to describe briefly the general provisions of all enabling acts and the variations from this general plan in each of the state acts.

General Provisions of Soil Conservation District Enabling Acts

Each enabling act contains at least 5 general provisions: (1) establishment of a state soil conservation committee and a statement of its powers and functions; (2) a detailed statement of procedure for the organization of soil conservation districts; (3) a list of powers of the district and its board of supervisors; (4) procedure for adoption and enforcement of land-use regulations; and (5) procedure for disorganization of districts.

There is a great deal of variation among the states as to the composition of the state soil conservation committee, but for the most part, members are the administrative heads of state agricultural agencies such as state extension service, state agricultural experiment station, and state department of agriculture. The state committee may invite the U. S. secretary of agriculture to appoint a member of his staff to serve on the state committee, but in some states the USDA representative has no voting power and serves only in an advisory capacity. The state committee may hire agents and other employees, determine their duties and fix their compensation. It may call upon the state attorney general for legal services and it may request state agencies to make special surveys and studies. Its principal functions are to assist and encourage the formation of soil conservation districts, to assist each local district in carrying out its program, to coordinate the programs of various districts, to secure the assistance of state and federal agencies, and to disseminate information regarding the activities and programs of soil conservation districts.

The procedure for organization of a district is as follows: A petition, signed by the required number of residents of the proposed district is presented to the state committee. The state committee holds a hearing on the petition at which all interested parties may be heard, after which the state committee may either deny or approve the petition. If the state committee decides that the district would not be feasible, no petitions for organization can be entertained from substantially the same territory for at least 6 months. If the state committee decides that the district would be desirable and practicable, it defines definitely the boundaries of the proposed district and submits the question of organization to a referendum at which all land owners or occupiers may vote. The territory to be included within the boundaries defined by the state committee need not be contiguous. The term "land occupier" is defined as "any person, firm, or corporation who shall hold title to, or shall be in possession of, any lands lying within a district organized under the provisions of this act, whether as owner, lessee, renter, tenant or otherwise." After the referendum, the state committee decides whether or not the district shall be organized, but it may not decide in favor of organization unless a required majority of the votes cast at the referendum favor creation of the district. If the state committee decides that the district should be organized, it appoints 1 or 2 supervisors who then proceed to complete the organization of the district by making application to the secretary of state for a certificate of organization. Other supervisors are elected by the local people to bring the total membership on the board of supervisors up to 3 in the case of North Dakota and to 5 in the other states.

Petitions for the inclusion of additional territory within the boundaries of an organized district are handled in much the same way as organizational petitions, except that where the number of land occupiers in the proposed addition is less than the required number of signatures for an organizational petition, the petition for inclusion may be signed by a majority of the land occupiers and the state committee may grant the petition without conducting a referendum.

Although a soil conservation district, created and organized as above, is declared to be a governmental subdivision of the state and a public body corporate and politic, it does not have all of the powers generally given to local governments. None of the 7 states in this region grant districts the privilege of issuing bonds or other evidences of debt. Only Colorado has given districts the power to levy taxes and special assessments; all other states, either by implication or expressed statement, deny districts all taxing powers. The Wyoming enabling act is the only one which specifically exempts real estate

and personal property owned by a district from general property taxes. As a matter of fact, Wyoming is the only one of the states whose legislature has the constitutional power to grant tax exemptions by general law. The other state constitutions limit tax exemptions to the property of the United States, the state, counties, cities, towns, school districts, municipal corporations, public libraries, and various charitable and religious organizations. The courts have construed these tax exemption clauses very strictly and generally have refused to define any governmental unit other than a city, town or village as being a "municipal corporation" within the meaning of these sections of their constitutions. 1/

The powers, governmental and corporate, which the various enabling acts give to soil conservation districts include the following: (1) to have perpetual succession; (2) to sue and be sued in the courts; (3) to enter into contracts; (4) to conduct surveys, investigations and research relating to soil erosion; (5) to operate demonstrational projects; (6) to carry out preventative and control measures on lands within the district upon obtaining consent of the land occupiers; (7) to acquire, hold, administer, sell and rent real estate and personal property; (8) to administer soil conservation and erosion control projects, which have been purchased or leased from the federal or state government; and (9) to supply land occupiers within the district with seed, fertilizer, machinery and other materials or services needed to carry out erosion control measures. These powers are termed "voluntary" or "project" powers.

In addition to these voluntary or project powers, all states in this region empower the board of supervisors of each district to enact conservation or land-use ordinances which have the effect of law within the boundaries of the district. Such ordinances, before becoming effective must be approved by a large majority of the local people voting at a referendum. Any

1/ For example, irrigation districts in some states are local governmental units, similar in many respects to soil conservation districts. The Montana Court holds that irrigation districts are not municipal corporations within the meaning of the tax exemption section of the state constitution and therefore the county in which such a district is located is supposed to levy taxes against lands acquired by the district by tax-deed or otherwise. (Buffalo Rapids Irrigation District v. Colleran, 85 Mont. 466, 279 P. 369)

land occupier may file a petition with the supervisors requesting the amendment or repeal of an existing ordinance, but such amendment cannot be made unless it is approved by the local people in the same manner as the original ordinance was approved.

There are several methods for the enforcement of land-use ordinances. The board of supervisors is empowered to enter upon any land within the district to determine whether or not the owner or occupier is violating any ordinance. Violation of an ordinance is termed a misdemeanor and upon conviction is punishable by a fine. A land owner or occupier, whose property is injured by the violation, may collect damages in a civil action. The most effective means of enforcement, however, is the right of the board of supervisors to enter upon the lands of the negligent owner or occupier, after a certain stated court procedure, to perform what work is necessary for the abatement of the objectionable erosion. The cost of such work is charged to the land owner or occupier and collection is enforced by a judgment against such party.

In case the district adopts land-use regulations, a board of adjustment composed of 3 members must be appointed by the state soil conservation committee, with the approval of the district supervisors. The duties of the board of adjustment are to hear complaints and to deny or grant petitions for special variation from the land-use regulations laid down in the ordinances in those cases where a strict enforcement of the regulations would result in unnecessary expense or undue hardship on the land occupier or owner. Actions of this board are subject to review by the state courts.

State agencies and counties administering lands within the boundaries of a soil conservation district must observe land-use regulations adopted by ordinance and must cooperate to the fullest extent with the supervisors of such district in carrying out a program of erosion control. The supervisors have free access to enter and to perform work upon state and county-owned lands.

A district may be abandoned at any time after 5 years of operation by the following procedure: A petition, signed by a required number of the land occupiers is presented to the state committee, which thereupon holds a hearing and referendum on the matter. The state committee decides whether or not the district shall be abandoned, but it must order the district abandoned if a certain majority of the land occupiers vote for dissolution at the referendum.

Colorado Soil Conservation Act

The 1937 session of the legislature adopted a soil erosion districts act, which was very similar to the standard act. (Ch. 241, S.L. 1937, as amended by Ch. 160, S.L. 1939) At least 17 soil erosion districts were organized under this act (prior to April 3, 1941). The act was amended in its entirety by the 1941 session. (Ch. 203, S.L. 1941). The present act uses the term "soil conservation districts" in place of "soil erosion districts," but it is optional with the supervisors of each district organized under the 1937 act whether the name of the district will be changed to ".....Soil Conservation District" in conformance with the 1941 act. By August 15, 1943, a total of 39 soil erosion and soil conservation districts had been organized.

The state soil conservation board is composed of 2 members of the state planning commission, the director of the state extension service and the director of the state agricultural experiment station. These 4 members may request the U. S. secretary of agriculture to appoint a fifth member, who apparently has equal status with the other members of the board.

The initial petition for organizing a district requires the signatures of at least 35 percent of the qualified land owners within the proposed district. Qualified land owners are limited to the following: (1) persons owning land within the district and actually residing thereon; (2) persons who own land within the district, although they do not live on this land, and who either actually operate their land in person or by agent or are eligible to vote at any political election in any county within which any part of the district is located; (3) corporations owning land within the district, to be represented by their duly authorized agents; and (4) any federal, state, or other governmental unit owning land within the district, to be represented by its duly authorized officers or agents. The only important class of land owners excluded are individuals who are non-residents of the counties within which the district is located.

The state board, if it approves the petition, notifies each land owner within the proposed district, by mail and by one publication in a newspaper of general circulation within the area, of a referendum on the question of organizing the district. The state board conducts the election and canvasses the votes. If a majority of the votes cast in person or by proxy at this election favor organization, the state board must proceed with the organization, and if the majority are against organization, the proceedings must be dismissed. The state board does not have discretionary power to determine whether or not a district is feasible after a referendum, as provided in the standard act.

If the organizational election carries, a second election (notice of which is given at the same time and in the same manner as the notice of the first election) is held for the following purposes: (1) the election of 3 members of the board of supervisors; (2) the election of 3 members of the district board of appeals; (3) the adoption of by-laws; (4) the adoption of rules and regulations for the prevention of erosion and the conservation of land; and (5) any other matter connected with the operation of the district. In addition to the 3 elected supervisors, 2 are appointed by the state board, subject to the approval of the 3 elected supervisors. Elected supervisors serve staggered terms of 3 years each, and appointed supervisors serve staggered terms of 2 years each. An elected supervisor must be a qualified voter of the district or an authorized representative of a corporation or public agency owning land within the district. Appointed supervisors must have training and experience to perform the specialized skilled services required of them, but they need not be land owners or qualified voters of the district. Any county extension agent whose jurisdiction lies wholly or partially within a district is an ex officio member of the board of supervisors in an advisory capacity and without the right to vote. The board of supervisors has the power to fill vacancies in its membership due to death, resignation, removal, incapacitation or loss of ownership until the next regular election.

A district organized under the Colorado act has all the voluntary and legislative powers suggested in the standard act. In addition, the district may prepare an annual budget and, if authorized by a majority vote of the qualified voters at a regular or regularly-called special meeting of the district, may levy taxes or special assessments against all lands within the district. The only limitation on this taxing power is that the assessment against any individual tract may not exceed the reasonable value of the benefits accruing to the land by the operation of the district.

Land-use regulations are proposed by the board of supervisors and adopted by majority vote of the qualified electors of the district. At least 10 districts have adopted land-use regulations. Provisions for enforcement of land-use regulations are substantially the same as those suggested by the standard act, except that where erosion prevention work is done on privately-owned land without the permission of the owner, the cost thereof is certified to the board of county commissioners, which assesses this amount against the land along with the general property taxes. Although supervisors may enter on private lands to engage in soil conservation work, they may not enter upon lands owned by any public agency without the written consent of such agency.

Appeals from any decision of the board of supervisors may be taken to the district board of appeals and from thence to the state board of appeals. The state board of appeals is composed of one member elected by the chairmen of the boards of supervisors of all districts lying west of the Continental Divide and one member elected by the chairmen of the boards of supervisors of all districts lying east of this Divide. Each of these 2 members must be a qualified voter of a soil conservation district on his side of the Continental Divide. These 2 members appoint a third who may be anyone who owns land within a Colorado soil conservation district but who must not be a member of the state soil conservation board, a member of any board of supervisors nor a public official. Terms are for 3 years. Vacancies are filled in the same manner as the original incumbent was selected.

Boards of county commissioners are instructed to cooperate with the supervisors of any district located within their county and they may make a reasonable charge for the use of county equipment and employees assigned to work with the supervisors. If the board of county commissioners finds that the soil conservation program is benefiting the county, it may donate money, services or the use of equipment to the district.

A district may be dissolved after 5 years existence upon the petition of the board of supervisors or any 5 land owners to the state board for an election on the matter. If 51 percent or more of the qualified voters present at such election vote for dissolution, the district ceases to exist upon issuance of the certificate of dissolution by the secretary of state. If less than 51 percent of the qualified voters present vote against dissolution, the district continues to exist and no petitions for another dissolution election may be considered by the state board for at least 3 years.

Kansas Wind Erosion Act

Kansas has been a pioneer in soil conservation legislation. As early as 1913, the legislature empowered boards of county commissioners to establish land-use regulations for control of wind erosion, and in case a land owner failed to observe these rules the commissioners were empowered to enter upon the land to perform necessary control work and to collect the cost of the work from the land owner as in the same manner as taxes. At first, the act applied only to counties with less than 10,000 population, but subsequent amendments included larger counties and in 1935 the act was amended to cover all counties. (Ch. 138, Laws of 1935) The Supreme Court, however, declared the act unconstitutional in January 1936 as an improper delegation of

legislative power. The Kansas constitution limits delegation of legislative powers to purely local county matters and the Court held that wind erosion is not a local problem, but transcends county and even state boundaries. (State, ex rel., Perkins v. Hardwick, et al, 144 Kan. 3, 57 P2d 1231) The law was amended by the 1937 legislature to make control of wind erosion a state function. (Sec. 2-2001 to Sec. 2-2011, 1941 Supp. G.S.K. 1935) No cases involving the revised act have come before the Supreme Court, and for the time being, it may be assumed that the act is constitutional.

The revised act makes it the duty of each land owner to plant trees, shrubs, grass and crops and to cultivate at such time and in such manner as will prevent or minimize soil blowing. The secretary of the state board of agriculture is directed to collect information on wind erosion and methods of control for various soil types and under various climatic and topographic conditions. This information is to be made available to county commissioners, the legislature, the governor and the general public. The secretary is also made the agent of the state to enter into agreements with the federal government for cooperative action in wind erosion control and to accept federal funds for distribution among counties.

The board of county commissioners, upon being advised that any tract of land is eroding, is directed to inspect the land immediately. If the board finds that erosion is severe enough to damage that tract or surrounding land or to endanger public health, it must decide what, if anything, can be done to stop the erosion. The board may order that the land be disked, chiseled or cultivated in some particular manner. If possible, the commissioners should confer with the land owner to advise him of their conclusions and to give him an opportunity to carry out the designated work. If it is not practical to consult with the land owner or if he refuses to do the work, the commissioners may hire the work done and pay for it by warrants drawn on the "soil-blowing fund" created from the proceeds of a general property tax levy of not to exceed 1 mill.

Before June 30th of each year the board of county commissioners makes a survey of the location, time, extent and severity of wind erosion. One copy of the survey, together with a map showing the location of eroding land, is filed with the secretary of the state board of agriculture who compiles the county reports into a state report.

If the survey discloses that a tract is blowing repeatedly, the commissioners may consider what measures of a permanent nature might be taken. They may hold a public hearing, notice

of which is sent to the land owner by registered mail. After the hearing the commissioners decide what treatment of the land is necessary, whether it should be planted to grasses, trees or shrubs, or the manner and times of the year that the land should be cultivated. If the land owner refuses to comply, the commissioners may carry out the erosion control work, in which case the commissioners notify the land owner by registered mail of the cost and to show cause why this amount should not be assessed against the land. Unless the land owner can show that the work was necessitated by circumstances beyond his control or by conditions which could not be reasonably anticipated, the cost is levied against the land and is collected as a special assessment. Assessments, however, are limited to \$1.00 per acre for work done in any one year. The commissioners are empowered to divide the cost between the land owner and the county. Collections of special assessments are credited to the soil-blowing fund. Any land owner may contest the validity of the assessment or enjoin its collection by court action, but such action must be brought within 30 days after the assessment is made.

Kansas Soil Conservation Districts Law

The 1937 legislature also adopted a soil conservation districts act which is very similar to the standard act. (Sec. 2-1901 to Sec. 2-1918, 1941 Supp. G.S.K. 1935) Prior to August 15, 1943, 23 districts had been organized under this act, all of them county wide. The state soil conservation committee is composed of the director of the state extension service, the director of the state agricultural experiment station, 2 members appointed by the governor and 1 member appointed by the U. S. secretary of agriculture. The appointed members hold office for 2 years.

The initial petition for organizing a district requires the signatures of 25 land occupiers. The state committee may not declare a district organized unless 75 percent of the votes cast at the referendum are in favor of the creation of the district. The state committee, upon granting approval for organization, appoints 2 supervisors to complete the organization and to file an application with the secretary of state. After the secretary of state issues the certificate of organization, the state committee conducts the election for the other 3 supervisors. Nominating petitions require the signatures of 25 land occupiers. All land occupiers are entitled to vote at the election and each may vote for any 3 of the candidates. The 3 persons receiving the largest number of votes are elected.

A soil conservation district organized under the Kansas act has all the voluntary and legislative powers suggested in the standard act. The board of supervisors may not enact a land-use ordinance unless it has been approved by 90 percent of the votes cast at a referendum on the matter at which all land occupiers within the district are entitled to vote. It is not known whether any districts have attempted to adopt land-use regulations, but the excessively large majority required undoubtedly would make it very difficult to adopt regulations. The provisions for the appointment of a board of adjustment and the procedure for enforcement of land-use regulations are substantially the same as those suggested by the standard act. In addition, violation of land-use regulations is made a misdemeanor punishable by a fine of not to exceed \$1,000. Signatures of 25 land occupiers are required for the petition requesting abandonment of the district. The referendum is conducted by the state committee after which it decides whether the district should be continued, but it must order a district dissolved unless at least 75 percent of the votes cast favor continuance.

Montana Soil Conservation Districts Law

The 1937 session of the Montana legislature passed a soil conservation district act (Ch. 157, S.L. 1937) which contained several obvious weaknesses. No group of farmers apparently thought it worthwhile to organize under this act and it was repealed and superseded by a 1939 law (Ch. 72, S.L. 1939) which closely parallels the standard act. By August 15, 1943, 14 districts had been organized.

The state soil conservation committee is composed of the director of the state extension service, the director of the state agricultural experiment station, 1 member of the state grass conservation commission, 1 member of the state water conservation board, the commissioner of the state department of agriculture, and 2 farmer members appointed by the governor from lists submitted by the 2 leading farm organizations. The state committee may invite the U. S. secretary of Agriculture to appoint a non-voting member to act in an advisory capacity.

The initial petition for organizing a district requires the signatures of 10 land occupiers. The state committee may not declare a district organized unless 65 percent of the votes cast at the referendum favor creation. The state committee, upon granting approval, appoints 2 supervisors to complete the organization. After the secretary of state has issued the certificate of organization, the state committee conducts the

election for the other 3 supervisors. Nominations are made by petition signed by at least 10 land occupiers. Each land occupier is entitled to vote for any 5 of the candidates on the ballot, and the 3 candidates who receive the largest number of votes are elected. The term of office of each supervisor is 3 years, although the 2 appointed supervisors serve for 1 and 2 year terms, respectively. Selection of all successors to fill both unexpired terms and full terms is by election.

A soil conservation district under the Montana act has all of the voluntary and legislative powers suggested in the standard act. The board of supervisors may not enact a land-use ordinance unless it has been approved by 65 percent of the votes cast at a referendum on the matter at which all land occupiers within the district are entitled to vote. The provisions for appointment of a board of adjustment and the procedures for the enforcement of land-use regulations are substantially the same as those suggested by the standard act. As far as is known, however, no district has attempted to use the legislative powers.

The signatures of 10 land occupiers are required for the petition requesting abandonment of a district. The referendum is conducted by the state committee, after which it decides whether the district should be continued, but it must order the district dissolved if a majority of votes cast at the election favor abandonment.

Nebraska Soil Conservation Districts Law

Nebraska soil conservation districts law (Sec. 2-1901 to Sec. 2-1914, 1941 Supp. C.S. 1929) became effective May 18, 1937. Prior to August 15, 1943, 40 districts had been organized.

The state soil conservation committee is composed of the director of the state extension service, the director of the state agricultural experiment station, and the director of the conservation and survey division of the University of Nebraska. The committee may invite the U. S. secretary of agriculture to appoint a person to serve as an adviser to the committee.

The initial petition for organization of a proposed district must be signed by 25 land owners. Only owners of land lying within the boundaries of the proposed district, as defined by the state committee, may vote at the referendum. The state committee may not grant the right of a district to organize unless at least 75 percent of the votes cast at the referendum are in favor of organization.

The state committee appoints 1 supervisor to complete the organization of the district and after the certificate of organization is issued by the secretary of state, the committee conducts an election for the other 4 supervisors. Candidates are nominated by petition signed by at least 25 land owners. Each land owner may vote for 4 candidates at the election and the 4 candidates who receive the highest number of votes are declared elected. The appointed supervisor serves for a 3-year term and any vacancy in that office is filled by appointment of the state committee. The elected supervisors serve for 4-year terms (2 of those elected upon organization of the district serve for only 2 years) and any vacancies are filled by appointment of the board of supervisors until the next biennial election.

A district organized under the Nebraska law is defined as a governmental subdivision of the state, but it is specifically denied the governmental power to levy taxes or assessments and the right to issue bonds against any lands within its boundaries. The district has all of the project powers suggested by the standard act. The board of supervisors may enact land-use regulations by ordinance if approved by 75 percent of the votes cast at a referendum at which only land owners within the district are entitled to vote. There is no provision, however, for a board of adjustment to grant variations from the regulations laid down in an ordinance, nor is any procedure set up whereby the board of supervisors can enforce an ordinance. In other words, the section of the act providing for land-use regulations is probably ineffectual as far as privately-owned lands are concerned. County and state agencies administering public lands within a district, however, must observe the land-use regulations. As far as can be learned, no district has attempted to adopt land-use regulations.

The petition for the abandonment of a district requires the signatures of 25 land owners. The state committee conducts a referendum and decides whether or not the district should continue. It must, however, declare the district abandoned if a majority of the votes cast at the referendum favor dissolution. The state committee may not entertain petitions for the discontinuance of a district nor conduct referenda on such petitions more frequently than once in 5 years.

It is to be noted that the Nebraska act differs from the standard act in two important points: (1) It does not provide for enforcement of land-use regulations; and (2) only land owners are permitted to vote at district elections and to sign official petitions, which means that tenants are excluded from having a voice in the operation of the district.

North Dakota Soil Conservation Districts Law

The North Dakota enabling act (Ch. 9, S.L. 1937, as amended by Ch. 6, S.L. 1939) went into effect March 16, 1937. By August 15, 1943, 21 districts had been organized under this act.

The state soil conservation committee is composed of the governor, state commissioner of agriculture and labor, director of the state extension service, and 1 member appointed by the U.S. secretary of agriculture.

The initial petitions requesting the organization of a soil conservation district requires the signatures of 25 land occupiers. All land occupiers are entitled to vote at the referendum and a bare majority of favorable votes empowers the state committee to organize the district. The state committee does not appoint supervisors to proceed with the organization of the district as provided in the standard act, but instead contacts the secretary of state directly for the certificate of organization. Upon receipt of such certificate, the state committee conducts an election for 3 district supervisors. Nominations are made by petition signed by 25 land occupiers. All land occupiers are entitled to vote and each may vote for any 3 of the candidates. The 3 candidates receiving the largest number of votes are deemed elected. The supervisors hold office for a term of 3 years, except that at the first election the one receiving the third highest number of votes holds office for only 1 year and the one who receives the second highest number of votes holds office for only 2 years.

A soil conservation district and its board of supervisors have the usual project and legislative powers suggested in the standard act. The supervisors may enact land-use regulations by ordinance, if approved by at least three-fourths of the votes cast at a referendum at which all land occupiers within the district are entitled to vote. Ordinances may be amended or repealed by the same procedure. At least 1 district has adopted land-use regulations. If an ordinance is adopted, a board of adjustment of 3 members must be appointed to grant or deny petitions for specific variations from the land-use regulations. Similar procedures to those outlined in the standard act are provided for enforcement of land-use regulations, except that the 1939 amendment repealed the provision which made violation of an ordinance a misdemeanor.

The petition for disorganization of a district must bear the signatures of at least 25 land occupiers. The state committee may not decide that the continued operation of the district is "administratively practicable" unless the majority

of the votes cast in the referendum are in favor of continuance. The state committee may not entertain petitions for the discontinuance of a district or conduct referenda on such petitions more often than once in 5 years.

South Dakota Soil Conservation District Law

The South Dakota soil conservation act (Ch. 4.15 R.C. 1939) became effective in June 1937. By August 15, 1943, 30 districts had been organized.

The state soil conservation committee is composed of the director of the state extension service, director of the state agricultural experiment station, commissioner of school and public lands, director of the state rural credit department, and one member appointed by the U. S. secretary of agriculture. The initial petition for organization of a proposed district must be signed by 25 land owners. Only owners of land lying within the boundaries of the proposed district as defined by the state committee may vote at the organizational referendum. The state committee may not grant the right of a district to organize unless at least two-thirds of the land owners voting at the referendum, representing two-thirds of the area of the proposed district, are in favor of organization.

The board of supervisors of the district is composed of 5 members, 2 of whom are appointed by the state committee and 3 of whom are elected by the land occupiers of the district. The term of office of each supervisor is 3 years except the terms of the first 2 appointed supervisors are for only 1 year. Nominations for the election of supervisors are by petition, signed by 25 land occupiers. At the election, each land occupier may vote for any 3 of the candidates and the 3 candidates receiving the largest number of votes are deemed elected.

A district organized under the South Dakota law has all of the project and legislative powers suggested by the standard act. The board of supervisors may not adopt land-use regulations unless the ordinance is approved by at least two-thirds majority of the votes cast at a referendum on the matter, representing at least two-thirds of the land area of the district. Amendments are adopted by the same procedure. Apparently, no district has attempted to use this power. If a land-use ordinance is adopted, a board of adjustment must be appointed as provided in the standard act. The supervisors may enforce an ordinance by petitioning the circuit court of the county to order the defendant to comply with the regulations and if the defendant fails to do so, the supervisors may go on the land and

perform whatever work is necessary to stop the erosion. The expenses of this work may be recovered from the defendant and if he refuses to pay, the supervisors may obtain a judgment against him in the amount of the charges plus 5 percent interest. In addition to all other methods of enforcement, the judgment is made a lien against the land and can be collected as are general property taxes against real estate.

The petition for the abandonment of a district requires the signatures of 25 land owners. The state committee conducts a referendum and decides whether or not the district should continue. It must, however, declare the district abandoned if a majority of the votes cast at the referendum favor dissolution. A district may not be abandoned until after it has been organized for at least 3 years and the state committee may not entertain petitions for discontinuance of a district nor conduct referenda on the matter more frequently than once in 3 years.

It will be noted that only land owners are entitled to sign petitions and to vote at referenda for the organization or dissolution of a district, although all land occupiers (which includes tenants as well as land owners) may participate in the operation of the district, in the election of supervisors, and in referenda for adoption of land-use regulations.

Wyoming Soil Conservation Districts Law

Wyoming was the last state in the region to adopt an enabling act. Its law (Ch. 134, S.L. 1941) became effective in March, 1941. By August 15, 1943, 10 districts had been organized.

The state soil conservation committee is composed of the president of the Wyoming livestock sanitary board, the commissioner of agriculture, the president of the state planning and water conservation board, the director of the agricultural extension service, and the director of the state agricultural experiment station. The committee may invite the U. S. secretary of agriculture to designate an employee to serve in an advisory capacity.

The initial petition to the state committee requesting organization of a district requires the signatures of 10 land owners. Any owner of lands within the proposed district may have his owned and leased lands excluded from the proposed district by petitioning the state committee not less than 7 days prior to the organizational referendum. At the referendum, land owners vote separately from land occupiers. Both groups

must file affidavits of acreage owned and leased at the time of the election. The state committee may not grant a district the right to organize unless a majority of the votes cast and a majority of the acreage voted by both land occupiers and land owners are in favor of organization.

The state committee appoints 2 land owners to act as supervisors for a 2-year term each. The other 3 supervisors are elected by the district. Nominations are by petition signed by at least 10 land owners and occupiers. All owners and occupiers are entitled to vote at the election, each voting for any 3 of the candidates. The 3 candidates receiving the largest number of votes are deemed elected. The 3 supervisors elected at the first election draw lots for their term of office, 1 for a 2-year term, and 2 for a 3-year term. Thereafter, all supervisors are elected for 3-year terms.

The district and its board of supervisors have all of the project and legislative powers suggested by the standard act. The wording has been changed in a number of places so as to leave no doubt that a soil conservation district can operate as a grazing district. A district may buy or lease grazing land for use by its members and it may regulate the distribution of livestock on the range. The board of supervisors may not enact land-use regulations by ordinance unless such ordinance is approved at a referendum. As in the case of the organizational referendum, land occupiers vote separately from land owners and a 75 percent majority vote, representing 75 percent of the acreage, must be obtained in each ballot box to ratify the ordinance. Apparently, no district has adopted any ordinances. Provisions for appointment of a board of adjustment and for enforcement of land-use ordinances are substantially the same as those recommended by the standard act.

The petition for disorganization requires the signatures of 10 land owners or occupiers. At the referendum conducted by the state committee, land occupiers and land owners vote together instead of separately as in organizational and ordinance referenda. The state committee must declare the district abandoned if a majority of the votes cast are in favor of disorganization.